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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,050	08/29/2003	Richard M. Powell	87276.1600	8987

7590 02/10/2004

BAKER & HOSTETLER LLP  
Washington Square, Suite 1100  
1050 Connecticut Avenue, N.W.  
WASHINGTON, DC 20036

EXAMINER
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WILSON, GREGORY A

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/651,050

Applicant(s)

POWELL ET AL.

Examiner

Gregory A. Wilson

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 is/are allowed.
- 6) ☒ Claim(s) 1,4-6,8-10,17 and 19-22 is/are rejected.
- 7) ☒ Claim(s) 2,3,7 and 11-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities:

On page 2, line 29 is unclear: "...steam chamber with seek to...".

Appropriate correction is required.

Claim 10 is objected to because of the following informalities:

Line 2 is unclear, ie: "...drain at least of water and steam...".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 discloses "a silicone O ring seal", this recitation is not supported by the specification.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3749

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 4, 5, 8-10, 17, and 19-22** are rejected under 35 U.S.C. 102(b) as being anticipated by **Violi (5,367,605)**. **Violi** discloses a boiler for producing steam and includes a housing (11), a tubular vessel (1) located within the housing, a heating element (7) located within the tubular vessel, a water inlet piping (13), a steam outlet (6), a valve (15) for regulating the water into the inlet, a thermostat (36) in association with the heating element (7) for turning off the heating element when a predetermined temperature is reached (implied in column 6, lines 25-31) wherein the temperature is sensed in a top portion of the heating element (column 8, lines 9-11). **Violi** furthermore includes a drain valve (18) which drains water from a low point in the piping (SEE Figure 2), a tubular water level control and containing means (SEE column 4, lines 33-48), wherein the water level is controlled to a stabilizing point between level detector (23) and water heater housing (1) (SEE Figure 2).

**Claims 1, 4, 9, 17, 21, and 22** are rejected under 35 U.S.C. 102(b) as being anticipated by **Davies et al (5,467,424)**. **Davies et al** discloses an apparatus for generating steam and includes a housing (10), a tubular vessel (12) located within the housing, a heating element (24) located with the tubular vessel, a water inlet (34), a steam outlet (50), a valve (inherent) configured to regulate the amount of water applied to the water inlet based on the water level (SEE column 3, lines 17-26), a piping (drain tube and valve) located at a low point to provide draining (SEE column 3, line 50-51);

Art Unit: 3749

the water level control is accomplished by level indicators 28, 30, and 32 which trigger an autofill inherently aiding in temperature control (SEE column 3, lines 52-54 and column 3, lines 19-25).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Violi (5,367,605). Violi discloses the applicants' primary inventive concept, but does not specifically recite that the predetermined temperature in which the heating element is configured to turn off is slightly above the boiling point of water. It would have been an obvious matter of design choice to modify Violi by making the boiler function so as to shut down after the boiling point of water is reached, since the applicant has not disclosed that having this operating parameter solves any stated problem or is for any particular purpose and it appears that the boiler of Violi would perform equally well with its currently operating safety thermistor (36).

### ***Allowable Subject Matter***

Art Unit: 3749

**Claims 2, 3, 7, and 11-16** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

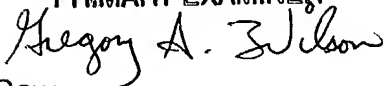
**Claim 18** is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory A. Wilson whose telephone number is (703) 308-1239. The examiner can normally be reached on 7 am - 4:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GREGORY WILSON  
PRIMARY EXAMINER



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February 4, 2004